

STEPTOE & JOHNSON LLP

1330 Connecticut Avenue, NW
Washington, DC 20036-1795

Telephone 202.429.3000
Facsimile 202.429.3902
<http://www.step toe.com>

Matthew S. Yeo
202.429.8184
myeo@step toe.com

DOCKET FILE COPY ORIGINAL

August 28, 1998

RECEIVED

AUG 28 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

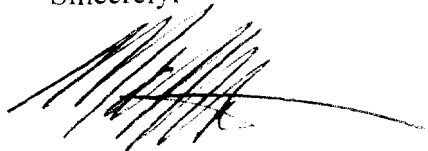
**Re: 1998 Biennial Regulatory Review – Review of International Common
Carrier Regulations, IB Docket No. 98-118**

Dear Ms. Salas:

Enclosed please find for filing on behalf of Iridium U.S., L.P. ("INA") an original and four copies of INA's reply comments in the above-captioned proceeding.

I have enclosed an additional copy of the filing, which I request that you date-stamp and return with our messenger.

Sincerely,



Matthew S. Yeo

Attorney for Iridium U.S., L.P.

cc: Regina Keeney
Jim Ball
Troy Tanner
Diane Cornell
George Li
Douglas Klein

0+4

RECEIVED

DOCKET FILE COPY ORIGINAL AUG 28 1998

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
1998 Biennial Regulatory Review –)
Review of International Common Carrier)
Regulations)

IB Docket No. 98-118

REPLY COMMENTS OF IRIDIUM U.S., L.P.

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, Iridium U.S., L.P. ("Iridium North America" or "INA") hereby submits these Reply Comments in the above-captioned Notice of Proposed Rulemaking ("NRPM").

Under the Commission's proposal, carriers would be able to provide new international services to unaffiliated points pursuant to a blanket authorization. Carriers would be required to notify the Commission of the new service within 30 days. Most commenters strongly support this proposal.¹

However, in its comments, the Federal Bureau of Investigation ("FBI") opposes the Commission's proposal to grant a blanket authorization for international service to unaffiliated points.² The essence of the FBI's position is that this post-initiation notification

¹ See, e.g., Comments of GTE, 1998 Biennial Regulatory Review: Review of International Common Carrier Regulations, IB Docket No. 98-118 (August 13, 1998) at 2; Comments of Cable & Wireless, 1998 Biennial Regulatory Review: Review of International Common Carrier Regulations, IB Docket No. 98-118 (August 13, 1998) at 3.

² Comments of the Federal Bureau of Investigation, 1998 Biennial Regulatory Review: Review of International Common Carrier Regulations, IB Docket No. 98-118 (August 13, 1998) ("FBI Comments").

would not provide an adequate basis to enforce national security, law enforcement, and trade-related concerns.³ Nowhere, however, does the FBI offer any credible explanation of how a delay of 30 days would significantly affect the ability of the FBI and other Executive Branch agencies to review new services and seek appropriate conditions or denials, where necessary. Indeed, the FBI's characterization of post-notification remedies as "too little and too late"⁴ collides head-on with the demonstrated capabilities of the Commission's regulatory processes.⁵ Unlike the current streamlined Section 214 procedures, the Commission's blanket licensing proposal would allow Executive Branch agencies an unlimited period of time in which to review and respond to a notification of new service.

At the same time, the FBI fails to acknowledge the benefit to international carriers of being able to provide new international services without having to undergo the 35-day delay that is currently built into the Commission's streamlined international Section 214 process. In today's highly competitive international marketplace, carriers must be able to initiate new service offerings on very short notice, and with a minimum of regulatory burden. The

³ FBI Comments at 6-7. See also Comments of the Department of Defense, 1998 Biennial Regulatory Review: Review of International Common Carrier Regulations, IB Docket No. 98-118 (August 13, 1998) ("DOD Comments") at 3. DOD's suggestion for a pre-grant review of blanket applications appears misplaced; the Commission's proposed regulation does not contemplate that carriers would have to obtain a one-time blanket authorization, as DOD appears to believe. In any event, as discussed below, DOD and other Executive Branch agencies would receive post-initiation notifications and could address any potential concerns under Section 208 of the Act.

⁴ Id. at 6.

⁵ See, e.g., Telefónica de Puerto Rico, Inc., 12 Comm. Reg. (P&F) 257 (1998) (Section 208 provides adequate remedies for complaints after initiation of service); Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Market Entry and Regulation of Foreign-Affiliated Entities, 10 Comm. Reg. (P&F) 750 (1997) at ¶ 245 (Sections 205 and 208 permit adequate remedial action after unlawful tariff has taken effect).

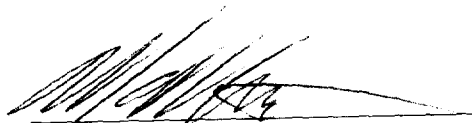
Commission's proposal recognizes this need, and would permit international carriers to respond to market developments immediately, while at the same time virtually eliminating the costs and burdens associated with a full Section 214 application for every new international service. Given that the Commission can achieve these important public interest goals while maintaining active, timely, and appropriate oversight of new service offerings, the FBI's opposition to the blanket authorization proposal is without merit.

The FBI also opposes any relaxation of Section 214 requirements as they apply to international CMRS providers, notwithstanding the fact that, as the Commission has recognized in other proceedings, CMRS generally does not pose the same types of regulatory concerns as other services.⁶ As INA noted in its initial comments in this proceeding, the Commission could forbear from all Section 214 regulation of international CMRS, with the requirement only that international CMRS providers submit an annual report describing new construction and new service destinations. The FBI and other interested agencies could review these annual submissions and, if necessary, file a complaint under Section 208 of the Communications Act, 47 U.S.C. § 208, to initiate a proceeding to examine particular facilities or services that pose a potential concern. Likewise, the Commission could initiate its own review under Section 205, 47 U.S.C. § 205. Contrary to the FBI's assertion that any post-initiation review would be inadequate, these provisions would provide an ample basis upon which the FCC, the FBI, and other Executive Branch could review international CMRS activities. At the same time, the number of filings that service providers would have to make would be reduced, resulting in greater service efficiencies and lower costs to users

⁶ See CMRS Second Report and Order, 9 FCC Rcd. at 1480-81, ¶ 182 (1994).

In conclusion, INA supports Executive Branch review of new service authorizations, but believes that the Commission's proposal would preserve this need while eliminating unnecessary regulatory burdens on routine proposals for new international services.

Respectfully submitted,



Philip L. Malet
James M. Talens
Matthew S. Yeo
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
Tel. (202) 429-3000
Fax (202) 429-3902

Attorneys for Iridium U.S., L.P.

August 28, 1998